

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

ROBERT MILLER §
VS. § CIVIL ACTION NO. 1:20-CV-190
FRANK LEONARD, M.D., *et al.*, §

MEMORANDUM OPINION REGARDING VENUE

Plaintiff, Robert Miller, an inmate currently incarcerated at the Hodge Unit with the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against defendants Frank Leonard, M.D. and Warden John McDaniel.

The above-styled action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636 and the Local Rules for the Assignment of Duties to the United States Magistrate Judge for findings of fact, conclusions of law, and recommendations for the disposition of the case.

Discussion

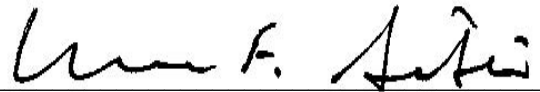
Venue in a civil rights action is determined pursuant to 28 U.S.C. § 1391(b). When, as in this case, jurisdiction is not founded solely on diversity of citizenship, 28 U.S.C. § 1391 provides that venue is proper only in the judicial district where all the defendants reside or in which a substantial part of the events or omissions giving rise to the claim occurred.

Plaintiff's complaint pertains to his treatment while incarcerated at the Hodge Unit in Rusk, Texas. Rusk, Texas is within the boundaries of Cherokee County, Texas located in the Eastern

District of Texas, Tyler Division. It is clear that all of the events or omissions giving rise to his claims occurred in the Eastern District of Texas, Tyler Division.¹

When venue is not proper, the court “shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.” 28 U.S.C. 1406(a). Plaintiff’s claims should be transferred to the Eastern District of Texas, Tyler Division. An appropriate order so providing will be entered by the undersigned.

SIGNED this the 4th day of May, 2020.

A handwritten signature in black ink, appearing to read 'Keith F. Giblin', written over a horizontal line.

KEITH F. GIBLIN
UNITED STATES MAGISTRATE JUDGE

¹Plaintiff is a three striker and is currently barred from filing any complaint without seeking permission first. In addition, plaintiff has been sanctioned by the Fifth Circuit Court of Appeals.